tion as to what law governs the formation of contracts and trusts of foreign land. Thus, as to the fundamental doctrine of the principal case, that the foreign decree created a personal obligation upon the husband, it seems not to matter at all whether the local court could have made a similar decree. Then the question remains whether the propriety (or duty, under the Constitution) of recognizing and enforcing the obligation of the foreign decree is affected by the existence or non-existence of power in the local court to make a similar decree. The answer, unless we are willing to accept merely arbitrary distinctions, is negative. There is no safer generalization in the field of conflict of laws than this: that all obligations created abroad should be enforced, regardless of whether similar obligations might have been similarly created under the law of the forum, unless in particular cases where their enforcement is contrary to the policy of the forum. That there is no policy opposed to the acceptance of such foreign decrees as we are considering, is demonstrated by Mr. Barbour, who calls attention to the fact that any such policy would be equally violated by acceptance of a deed executed under compulsion of the foreign court—which latter form of indirect acceptance of the foreign decree has never been refused. 17 MICH. L. REV. 549.

It is submitted that the distinctions attempted in the principal case are untenable, and must go the way of the other "diversities," parcel of the conservative doctrine, which are rejected by the court in reaching its decision.

E. N. D.

DETERMINABLE FEE—POSSIBILITY OF REVERTER.—Professor Gray, in the first edition of his great work, "The Rule Against Perpetuities," Section 31 and following, contended that the Statute Quia Emptores by putting an end to tenure between feoffor and feoffee of an estate in fee simple, incidentally put an end to possibility of reverter to the feoffer on failure of the condition in a determinable fee. Specifically he says that upon dissolution of an eleemosynary corporation a terminable gift to such corporation does not revert to the donor, as is said by Lord Coke, Co. LITT. 13b, but escheats. For reversion depends on tenure, and the Statute by destroying tenure ends possibility of reverter. In his third edition, Section 40a, he notes that since the second edition of his book three cases have held *contra,—North* v. *Graham,* 235 Ill. 178, *Pond* v. *Douglass,* 106 Me. 85, and *Board of Chosen Freeholders* v. *Buck,* 779 N. J. Eq. 472. These follow a *dictum* in *First Universalist Society* v. *Boland,* 155 Mass. 171, which he considers as opposed to a case not to be distinguished from it, the leading case of *Brattle Square Church* v. *Grant,* 3 Gray 142. The learned author regards Lord Coke's statement that land of a corporation upon its dissolution reverted to the donor or grantor, while upon the death of a natural person without heirs his land escheated, as based on cases which do not uphold him, and the rule as not surviving his retirement, for *Johnson* v. *Norway,* Winch 37, 1622, shows a great doubt on the part of the judges, and though the report does not give the final decision on the point, Lord Hale's MSS. cited Co. LITT. 13b, Harg. note, say they held the land escheated. Lord Coke seems to have but a *dictum* in one case to support him, and only one case that has ever followed it, GRAY, Section 51.

In section 51a, of the third edition Professor Gray remarks that the only case that has ever been decided in accordance with Lord Coke's remark is *Mott* v. *Danville Seminary,* 129 Ill. 403, 136 Ill. 289. "This case, as a decision, stands alone." This was true when the second edition of the RULE AGAINST PERPETUITIES appeared, but not in 1915 when the third edition came out. By this time, in addition to the cases cited by Professor Gray, approving the doctrine that there was possibility of reverter to the donor in case of a terminable gift to a charity, *Presbyterian Church* v. *Venable,* 159 Ill. 215 (1896), *Miller* v. *Riddle, 227* Ill. 53, cases which he regarded as not actually decided on that point though it certainly seems to be involved in the latter, there was the further Illinois case cited by Professor Gray at Section 40 a, but not at 51a, of *North* v. *Graham,* 235 Ill. 178 (1908), which notices and rejects as against the great weight of authority the view of Professor Gray. It was therefore not "the only case" when the third edition appeared. The misstatement is due to the fact that Section 51a was taken over without change from the second edition while 40a appeared for the first time in the third edition.

In his work on FUTURE INTERESTS, Professor Kales thinks it a matter of surprise that the Illinois Supreme Court in the *Danville Seminary Case* should have overlooked the masterly presentation of the matter by Professor Gray, and ruled *contra,* but accounts for it by the suggestion that the rule adopted by the court seemed a just one. The land having been originally donated for a purpose, and that purpose having failed, it seems more just that the land revert to the heirs of the donor than escheat to the state. That this may be the correct explanation is borne out by more recent cases. In *Hart* v. *Lake,* 273 Ill. 60, (1916), *Mott* v. *Danville Seminary, supra,* is again cited with approval, though the claimant is denied the aid of equity to enable him to recover the reverted property. But in *County of Franklin* v. *Blake,* 283 Ill. 292 (1918), the court refuses to recognize possibility of reverter in the case of land purchased, not donated, for a charitable purpose, and on the distinct ground that "where the owner donates land to aid a corporation organized for a charitable or public purpose to carry out its objects, when the corporation ceases to carry out the purposes of the organization and has no further use for the land it is reasonable and just that it should revert to the donor, but when land is bought by such corporation and its value paid the owner, we can see no more reason why it shoud revert to the grantor than land purchased by a trading corporation", which all agree does not revert, but on dissolution of the corporation is to be divided among the stockholders. However, this seems to prove too much, for the law knows no such distinction between land granted and land donated to a trading corporation, and in logic the same follows in case of benevolent corporations. At all events the Illinois court holds that on the equities of the case, on the justice, but hardly the reason of the case, the donated lands of a dissolved eleemosynary corporation revert to the donor, while the granted lands do not revert to the grantor, but go to the members or their representatives who put their money into the buildings and work of the corporation, or, those failing, escheat to the state. The court relies on *McAlhany* v. *Murray,* 89 S. C. 440, annotated

in Ann. Cas. 1913 A 1012, and in 10 MICH. L. REV. 121, as "an able and logical" discussion of the law. Strangely enough this case, though going on the justice of the case, rejects the Illinois view of reverter to the donor, and makes no distinction between donor and grantor, and this in face of the very clear previous expressions of the South Carolina court *contra*. The case contains an excellent discussion and review of the authorities, and rejects Lord Coke's rule.

Finally it may be noted that none of these cases is decided on the legal reason as distinguished from the equitable justice, of the matter. They do not discuss Professor Gray's thesis that a reversionary right implies tenure, and that the Statute Quia Emptores by ending tenure between foeffer and foeffee of a fee simple incidentally ended all possibility of reverter to donor or grantor, and hence all determinable fees. Thus a late English case, *Hastings Corp.* v. *Letton* (1908), 1 K. B. 378, makes no distinction between lease for years and fee simple. The statute applied only to fee simple estates. If the Statute had that effect then, except in Pennsylvania and South Carolina where tenure exists and the Statute Quia Emptores is not in force, determinable fees with their possibility of reverter are, on reason, extinct, whatever the justice of the case. Their absurdity in the case of trading corporations long ago led the courts to legislate them out of existence without waiting for any statute. See the interesting discussion in *Richards* v. *Coal and Mining Co.* (1909), 221 Mo. 149. And it is precisely in South Carolina where they might in reason be still in force that the latest pronouncement of the highest court is against them on the grounds of justice and equity. A short, but interesting, discussion of the soundness of Professor Gray's position may be read in the review of the first edition of his book on the RULE AGAINST PERPETUITIES in 2 LAW QUART. REV. 394, and in a resulting discussion by Professor Gray and Mr. Challis, two masters in real property law, in 3 LAW QUART. REV. 399, 403. On the whole Professor Gray seems to have the better of the argument and the worst of the decisions, and it is perhaps well that it is so. To base our modern rule as to disposition of the land of a dissolved corporation upon a statute of 1290, and an ancient, though not extinct, concept of tenure, certainly seems undesirable if the result violates our sense of reason and justice. It seems better to distribute such property to those equitably entitled on the facts of each case. Failing any such parties, escheat to the state is just. See 10 MICH. L. REV. 121.

E. C. G.

EVIDENCE—PRESUMPTION OF LEGITIMACY.—The present-day status of the old common law rule aimed at preventing impeachment of the legitimacy of children born in wedlock, is presented by the opinion in *Re McNamara's Estate,* and *McNamara* v. *McNamara et al,* 183 Pac. 552.

The case involved the question of whether the son of Mrs. B. was legitimate, and therefore entitled to inherit from her husband. The son was born to Mrs. B. on the 24th of October, 1914. Mrs. B. had left her husband on the 24th of December, 1913, and had not seen him in the interim under circumstances permitting intimacy between them.